IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11918 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT AGRICULTURE UNIVERSITY

Versus

KIRITKUMAR BHAILALBHAI RAVAL

Appearance:

1. Special Civil Application No. 11918 of 2003

MR DG CHAUHAN for Petitioner No. 1

MR DIPEN C SHAH for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 14/07/2004

ORAL JUDGEMENT

1.0 The petitioner - University has challenged the award dated 01/01/03 passed by the Labour Court,

Vadodara, in Reference (LCV) No.1270 of 2000, whereby, the respondent workman was directed to be reinstated with 75% back wages with continuity of service and Rs.2000/- was imposed as cost on the petitioner.

2.0 The respondent workman was appointed as an Agricultural Assistant in the petitioner University. It is the case of the petitioner that the respondent was shear negligent in discharging his duties and was remaining absent unauthorisedly. In spite of several warnings and opportunities, the respondent did not improve his behaviour and conduct, and therefore, by order dated 18/03/95, the services of the respondent workman were terminated immediately.

2.1 It is also the case of the petitioner University that after a lapse of more than five years, an industrial dispute being Reference (LCV) No.1270 of 2000 was raised by the respondent workman before the Labour Court, Vadodara, claiming reinstatement in service with full back wages. The Labour Court, Vadodara by its award dated 01/01/03 directed the reinstatement of the respondent workman with 75% back wages. It is this award of the Labour Court which is under challenge before this Court in this petition.

3.1 Mr.D G Chauhan for the petitioner has submitted that the Labour Court had set aside the order of termination, on the ground that no inquiry was conducted against the respondent workman, before terminating his services. He has submitted that the Labour Court had not considered the fact that the respondent was given several opportunities / warnings before terminating him from the services. Thus, the award of the Labour Court is illegal and erroneous.

3.2 Mr.Chauhan for the petitioner has further submitted that the respondent was terminated from the services in 1995 and he approached the Labour Court after more than five years. This shows, that at the relevant point of time, the respondent workman was not interested in the job, but, due to some subsequent development, he approached the Labour Court.

3.3 Mr.Chauhan for the petitioner has further submitted that pursuant to the award of the Labour Court, the respondent workman has been reinstated in the service. Therefore, the only point which is required to be considered at this stage is with respect to the grant of 75% back wages. Mr.Chauhan has limited his arguments only with respect to the grant of 75% back wages.

4.1 In that view of the matter, I am considering the petition only on the aspect of grant of back wages to the respondent workman. I have heard the learned counsel for the parties and have perused the papers. Mr.D C Shah for the respondent workman was not in a position to explain as to why the respondent had approached the Labour Court after a lapse of more than five years. Moreover, the Labour Court has granted back wages, without clarifying that back wages is not granted for the period for which the respondent had not approached the Labour Court. Thus, the order passed by the Labour Court is required to be modified to the extent that the petitioner University shall reinstate the respondent workman with continuity of service but without any back wages.

5.1 For the foregoing reasons, the award of the Labour Court is modified to be read as the respondent workman is ordered to be reinstated with continuity of service, but, without any back wages. The petition stands disposed of accordingly. Rule is made absolute to the aforesaid extent with no orders as to costs.

(K. S. Jhaveri, J.)

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